

----- Original Message -----

Subject: Referenced US ACOE letter
Resent-From: Islandereast.Comments@noaa.gov
Date: Thu, 20 Nov 2003 14:53:35 EST
From: KKennedyMD@aol.com
To: islandereast.comments@noaa.gov

I am submitting for the record a letter from the U.S. ACOE that is referenced in the Final Comments of CT Stop the Pipeline.

Respectfully submitted,

Katherine Kennedy



USACOE6-17-02.pdf



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

June 17, 2002

Regulatory Division
CENAE-R-200103091

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First street, N.E., Room 1A
Washington, D.C. 20426

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FEDERAL ENERGY
REGULATORY COMMISSION

Re: Islander East Pipeline Project - Docket Nos. CP01-384-000 / CP01-387-000

Dear Secretary Salas:

The Army Corps of Engineers (Corps) has received and reviewed the Draft Environmental Impact Statement (DEIS) for the above-referenced project which describes a proposal to construct 50 miles of new 24-inch diameter pipeline in various locations between Connecticut and Long Island, New York, including a 22.6 mile crossing of Long Island Sound and associated ancillary facilities (three meter stations and five mainline valves) for the purpose of providing natural gas transmission to Connecticut, Long Island and New York City. The Corps received an application for the subject project on April 3, 2002, and issued a Public Notice on May 1, 2002.

The intent of this letter is to provide comments and to impart our interpretation of the analysis of alternatives, within the DEIS, as they relate to *Clean Water Act Section 404 (b)(1) Guidelines* (Guidelines) *for Specification of Disposal Sites for Dredged or Fill Material* (40 CFR Part 230). The Guidelines, which are binding regulations, are the substantive environmental standard by which all Section 404 permit applications are evaluated. The fundamental precept of the Guidelines is that discharges of dredged or fill material into waters of the United States, including wetlands, should not occur if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, provided that the alternative does not have other significant adverse environmental consequences. A permit cannot be issued, therefore, in circumstances where a less environmentally damaging practicable alternative for a proposed discharge exists. Further, where insufficient information is provided to determine compliance, the Guidelines require that a permit be denied (40 CFR 230.12(a)(3)(iv)).

The inherent flexibility of the Guidelines' are discussed in the Preamble (45 FR 85336 December 24, 1980), 40 CFR Section 230.6, and 40 CFR Section 230.10. In particular, it is important to note that notwithstanding this

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flexibility, the record must contain sufficient information to demonstrate that the proposed discharge complies with the requirements of Section 230.10(a) of the Guidelines. The amount of information needed to make such a determination, and the level of scrutiny required by the Guidelines, should be commensurate with the severity of the environmental impact and scope or complexity of the proposed discharge activity. Our preliminary review of the analysis of alternatives, as presented within the DEIS, indicates that:

- The analysis does not contain sufficient information to make a reasonable determination as to whether the proposed discharge will comply with the Guidelines.
- The analysis fails to adequately compare the environmental impacts of system alternatives to the proposal currently under consideration, allowing for a determination as to whether the need or demand for gas transmission to Connecticut and Long Island can be met in a less environmentally damaging manner.
- The analysis, although incomplete, appears to suggest that the Eastern Long Island (ELI) system alternative would be practicable, shorter in length (both onshore and offshore), cross fewer streams, avoid designated shellfish beds, affect fewer residences, and minimize trenching in the nearshore environment. Consequently, the ELI alternative, as presented in the DEIS, appears to meet the stated project purpose and need while discernibly reducing potential adverse impact to the aquatic environment.

To summarize, the Corps' preliminary analysis of alternatives, as presented in the DEIS, supports one of two conclusions:

1. The proposal fails to comply with the Guidelines based on the fact that there is insufficient information to determine if the proposed activity is the least environmentally damaging practicable alternative.
2. There appears to be a practicable system alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem.

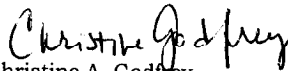
Only the Least Environmentally Damaging Practicable Alternative (LEDPA) may receive a federal permit.

At this time, the Corps would like to request an interagency coordination meeting to attempt to resolve the perceived shortcomings of the draft

environmental documentation, particularly, the comparison of the alternatives. It would be counterproductive if the Final Environmental Impact Statement recommended an alternative which cannot receive a federal permit.

If you have any questions, please contact me at 978-318-8335, or Ms. Cori M. Rose of my staff at 978-318-8306.

Sincerely,


Christine A. Godfrey
Chief, Regulatory Division

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